

MAR 25 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSEPH SOO HAN,

Defendant - Appellant.

No. 08-10247

D.C. No. 2:07-cr-00205-PMP

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding

Submitted March 18, 2009^{**}

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Joseph Soo Han appeals from the 100-month sentence imposed following his guilty-plea conviction for bank robbery, in violation of 18 U.S.C. § 2113(a).

We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Han contends that the district court clearly erred by applying a three-level enhancement under U.S.S.G. § 2B3.1(b)(2)(E) for possession of a dangerous weapon. We conclude that the district court did not clearly err, because the enhancement is applicable where a defendant uses an object to create the impression it is a dangerous weapon. *See* U.S.S.G. § 2B3.1, cmt. n.2. (2007); *see also United States v. Bendtzen*, 542 F.3d 722, 727 (9th Cir. 2008).

Han also contends that the district court clearly erred by refusing to grant a two-level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(a), because he admitted the conduct comprising the offense of conviction. We conclude that the district court did not clearly err because Han falsely denied or frivolously contested relevant conduct supporting the weapon enhancement. *See* U.S.S.G. § 3E1.1, cmt. n.1(a) (2007); *see also United States v. Rutledge*, 28 F.3d 998, 1002 (9th Cir. 1994).

AFFIRMED.